Imprisonment of a man who, while guilty of a serious but not heinous crime, has lost his home, his personal property, has seen his business ruined, has had his standing in the community damaged beyond repair, has been involved in investigation and litigation since 1956 and has lived in a state of purgatory during the past four years and has seen both his health and the physical and mental health of his wife deteriorate to the point where full utilization of their time remaining may no longer be possible, merely because he, his counsel and the Probation Department failed to interpret the facts, conditions and circumstances pertaining to his problem to the satisfaction of a judge other than the one who chose not to impose immediate sentence on original sentencing, would indeed constitute a harsh and unusual punishment that would not be in accord with our established principles of constructive and remedial rather than punitive system of justice.

The relationship between [illegible] and those who deal with them and preservation of civil and constitutional rights of individuals are of nation wide significance. These important federal questions should be settled by this Court.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Thomas R. Hoover
Irving Fleischer
Attorneys for Petitioner
1440 Broadway
New York, N. Y. 10018

APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
CHICAGO 60604, ILLINOIS

September 27, 1966

Before

HON. JOHN S. HASTINGS, *Chief Judge*
HON. WIN G. KNOCH, *Circuit Judge*
HON. THOMAS E. FAIRCHILD, *Circuit Judge*

UNITED STATES OF AMERICA, *Plaintiff-Appellee,* No. 15500 vs. WARD M. VANDERPOOL, *Defendant-Appellant.*	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

This Court has considered the record in this case transmitted to this Court by the District Court, in addition to the briefs filed by the respective parties herein, and has heard oral argument in open court by counsel for the said parties. Having taken the case under advisement for decision, the Court has conferred thereon and is now of the opinion, and accordingly holds and adjudges, that the judgment from which this appeal was taken is supported by the record herein and the law appertaining thereto.

WHEREFORE, the judgment from which this appeal was taken is affirmed, and the Clerk of this Court is directed to enter the judgment of this Court accordingly.

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Chicago, Illinois 60610

Tuesday, September 27, 1966

Before

HON. JOHN S. HASTING, *Chief Judge*
HON. WIN G. KNOCH, *Circuit Judge*
HON. THOMAS E. FAIRCHILD, *Circuit Judge*

UNITED STATES OF AMERICA, *Plaintiff-Appellee,* vs. WARD M. VANDERPOOL, *Defendant-Appellant.* No. 15500	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

This cause came on to be heard on the transcript of the record from the United States District Court for the Northern District of Illinois, Eastern Division, and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this court that the judgment of the said District Court in this cause appealed from be, and the same is hereby, AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Chicago, Illinois 60604

Tuesday, October 11, 1966

Before

HON. JOHN S. HASTING, *Chief Judge*

UNITED STATES OF AMERICA, *Plaintiff-Appellee* vs. WARD M. VANDERPOOL, *Defendant-Appellant.* No. 15500	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

On consideration of the motion and affidavit of counsel for defendant-appellant, counsel for plaintiff-appellee having no objections thereto,

IT IS ORDERED that the time for filing defendant-appellant's petition for rehearing be extended to October 24, 1966.

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Chicago, Illinois 60604

Monday, November 14, 1966

Before

HON. JOHN S. HASTING, *Chief Judge*
HON. WIN G. KNOCH, *Circuit Judge*
HON. THOMAS E. FAIRCHILD, *Circuit Judge*

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

No. 15500 vs.

WARD M. VANDERPOOL,
Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

IT IS ORDERED by the Court that the petition for rehearing filed in the above entitled matter be, and the same is hereby DENIED.

APPENDIX B

APPLICABLE CONSTITUTIONAL AND STATUTORY PROVISIONS

Amendment V

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

Amendment VIII

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment XIV

SECTION I

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

26 USC §6863 (b) (3) (A)

(3) Stay of sale of seized property pending Tax Court decision.—

(A) General Rule.—Where, notwithstanding the provisions of section 6213 (a), a jeopardy assessment has been made under section 6861 the property seized for the collection of the tax shall not be sold—

(i) if section 6861 (b) is applicable, prior to the issuance of the notice of deficiency and the expiration of the time provided in section 6213 (a) for filing petition with the Tax Court, and

(ii) if petition is filed with the Tax Court (whether before or after the making of such jeopardy assessment under section 6861), prior to the expiration of the period during which the assessment of the deficiency would be prohibited if section 6861 (a) were not applicable.

26 USC §7122 (a)

(a) Authorization.—The Secretary or his delegate may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General or his delegate may compromise any such case after reference to the Department of Justice for prosecution or defense.

26 USC §7201.

Sec. 7201. Attempt to evade or defeat tax. Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided

by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

26 USC §7203

Sec. 7203. Willful failure to file return, supply information, or pay tax.

Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return (other than a return required under authority of section 6015 or section 6016), keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

26 USC §7206 (1) and (4)

Sec. 7206. Fraud and false statements.

Any person who—

(1) Declaration under penalties of perjury.—Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

(4) Removal or concealment with intent to defraud.—Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or com-

modities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title;—

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 3 years, or both, together with the costs of prosecution.

26 USC §7809 (b)

. . . . Upon the acceptance of such offer in compromise or offer for the purchase of such real estate, the amount so accepted shall be withdrawn from such deposit fund account and deposited in the Treasury of the United States as internal revenue collections. Upon the rejection of any such offer, the Secretary or his delegate shall refund to the maker of such offer the amount thereof.

28 USC §2007 (a)

A person shall not be imprisoned for debt on a writ of execution or other process issued from a court of the United States in any State wherein imprisonment for debt has been abolished. All modifications, conditions, and restrictions upon such imprisonment provided by State law shall apply to any writ of execution or process issued from a court of the United States in accordance with the procedure applicable in such State.

31 USC §191

Whenever any person indebted to the United States is insolvent, or whenever the estate of any deceased debtor, in the hands of the executors or administrators, is insufficient to pay all the debts due from the deceased, the debts due to the United States shall be first satisfied; and the priority established shall extend as well to cases in which a debtor, not having sufficient property to pay all his debts, makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed.